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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,094	04/06/2001	Hiroyuki Miyake	205405US2	2190
22850	7590	09/09/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GIBBS, HEATHER D	
			ART UNIT	PAPER NUMBER
			2622	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/827,094	MIYAKE, HIROYUKI	
	Examiner Heather D. Gibbs	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/20/03, 07/09/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on March 17, 2005 has been entered and made of record.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.
3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (APA) in view of Saiga et al (JP 406095040A).

Regarding claim 1, which is representative of claim 8, APA discloses a first lens 3a configured to transmit light that enters from a first direction; a second lens 3b

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configured to transmit light that enters from a second direction which is different from said first direction; a photo receiving face 10 configured to receive light passed through said first lens and light passed through said second lens. See Fig 20.

APA does not disclose expressly a light shield plate, wherein said light shield plate prevents an interference between a first light flux that passes through said first lens and travels toward said photo receiving face and a second light flux that passes through said second lens and travels toward said photo receiving face so that said first and second light fluxes are not overlapped with each other on said photo receiving face.

Saiga discloses a light shield plate 5, wherein said light shield plate prevents an interference between a first light flux that passes through said first lens and travels toward said photo receiving face 2 and a second light flux that passes through said second lens and travels toward said photo receiving face so that said first and second light fluxes are not overlapped with each other on said photo receiving face (Constitution).

APA & Saiga are combinable because they are from optical deviation devices.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Saiga with APA.

The suggestion/motivation for doing so would have been to have the quantity of the leak light minimized, thereby obtaining proper parallel luminous flux, as taught by Saiga et al.

Therefore, it would have been obvious to combine APA with Saiga to obtain the invention as specified in claim 1.

6. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Saiga (JP 406095040A) and further in view of Matsumura et al (US 4,563,576).

For claim 2, APA and Saiga disclose the image pickup device and method as discussed above.

APA and Saiga do not disclose expressly a translucent member including a plate-shaped part which is almost parallel to said photo receiving face to protect said photo receiving face, wherein said translucent member is constructed by a plurality of translucent member pieces divided so as to be adapted to placement of said light shielding plate, and said translucent member pieces are disposed so as to sandwich said light shield plate.

Matsumura discloses a translucent member (10,16) including a plate-shaped part which is almost parallel to said photo receiving face to protect said photo receiving face, wherein said translucent member is constructed by a plurality of translucent member pieces divided so as to be adapted to placement of said light shielding plate, and said translucent member pieces are disposed so as to sandwich said light shield plate (Fig 2).

APA, Saiga & Matsumura are combinable because they are from the same field of endeavor.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Matsumura with APA and Saiga.

The suggestion/motivation for doing so would have been to abet in eliminating the need to place an extra light source in the optical system.

Therefore, it would have been obvious to combine Matsumura with APA and Saiga to obtain the invention as specified in claim 2.

Considering claim 3, Matsumura teaches wherein said translucent member pieces and said light shield plate are formed integrally (Fig 2).

Considering claim 4, Matsumura teaches wherein each of said translucent member pieces comprises at least two side walls which extend from said plate-shaped part and are in contact with a photo receiving element including said photo receiving face so as to maintain a constant distance between said plate-shaped part and said photo receiving face (Fig 2).

Regarding claim 5, Matsumura teaches wherein said side wall surround a space between said translucent member piece and said photo receiving face by a combination with said light shield plate (Fig 2).

Considering claim 6, Matsumura teaches means for changing a travel direction of at least one of light passed through said first lens and light passed through said second lens so that the light travels toward said photo receiving face (Col 4 Lines 9-10).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Saiga (JP 40609504A) and further in view of Touched (US 6,163,411).

APA and Saiga disclose the image pickup device as discussed above.

APA and Saiga do not disclose expressly a portable telephone including an image pickup device.

Touched discloses a portable telephone including an image pickup device.

APA, Saiga & Touched are combinable because they are from the same field of endeavor.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include Touched with APA and Saiga.

The suggestion/motivation for doing so would have been as all three systems involve a lens system and an image pickup apparatus.

Therefore, it would have been obvious to combine Touched with APA and Saiga to obtain the invention as specified in claim 7.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather D. Gibbs whose telephone number is 571-272-7404. The examiner can normally be reached on M-Thu 8AM-7PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Heather D Gibbs  
Examiner  
Art Unit 2622

hdg

  
EDWARD COLES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER